DESCRIPTION OF AMENDMENTS BY CHAIRMAN ROSTENKOWSKI TO H.R. 2636 (THE TECHNICAL CORRECTIONS ACT OF 1987)

Prepared by the Staff

of the

Joint Committee on Taxation

October 14, 1987

JCX-14-87

J 562-36

CONTENTS

		Page
INTRODUCTION		1
PART ONE:	TECHNICAL AMENDMENTS TO THE TAX REFORM ACT OF 1986	2
I.	Capital Cost Provisions	2
II.	Natural Resources	3
III.	Tax Shelters; Interest Expense	3
IV.	Corporate Tax Provisions	4
	A. Special limitations on net operating loss and other carryforwards	4
	B. Recognition of gain or loss on liquidating sales and distributions of property (General Utilities)	4
	C. Related party sales	5
	D. Amortizable bond premium	5
	E. Regulated investment companies (RICs)	5
	F. Real estate investment trusts (REITs)	6
	G. Real estate mortgage investment conduits (REMICs)	6
V.	Minimum Tax Provisions	8
VI.	Accounting Provisions	9
VII.	Financial Institutions	10
VIII.	Insurance Provisions	10
IX.	Pensions and Deferred Compensation; Employee Benefits; ESOPs	10
	A. Pensions and deferred compensation	10
	B. Employee Benefits	14
	C. ESOPs	15
	D. Other corrections	15
X.	Foreign Tax Provisions	16

A. Foreign tax credit..... 16

B. Source rules..... 17

C. U.S. taxation of income earned through foreign corporations..... 18

D. Special tax provisions for U.S. persons..... 20

E. Treatment of foreign taxpayers..... 21

F. Foreign currency exchange rate gains and losses..... 22

G. Tax treatment of possessions..... 22

H. Miscellaneous foreign provisions..... 22

XI. Tax-Exempt Bond Provisions..... 23

XII. Trusts and Estates; Minor Children; Generation-Skipping Transfer Tax..... 25

A. Income taxation of trusts and estates. 25

B. Taxation of unearned income of minor children..... 26

C. Generation-skipping transfer tax..... 27

XIII. Compliance Provisions..... 28

XIV. Miscellaneous..... 29

PART TWO: TECHNICAL AMENDMENTS TO OTHER 1986 TAX LEGISLATION..... 30

I. Superfund Revenue Act of 1986..... 30

Initial list of taxable substances..... 30

II. Harbor Maintenance Revenue Act of 1986.... 30

Due date for study of impact of harbor maintenance tax on potential cargo diversion..... 30

III. Omnibus Budget Reconciliation Act of 1986..... 30

Miscellaneous pension provisions..... 30

INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, describes amendments by Chairman Rostenkowski to H.R. 2636 (The Technical Corrections Act of 1987).[2]

The first part is a description of additional technical amendments to the Tax Reform Act of 1986 (Title I of H.R. 2636), and the second part is a description of additional technical amendments to other 1986 tax legislation (Title II of H.R. 2636).

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[1] This document may cited as follows: Joint Committee on Taxation, Description of Amendments by Chairman Rostenkowski to H.R. 2636 (The Technical Corrections Act of 1987) (JCX-14-87), October 14, 1987.

[2] For a description of H.R. 2636, see Joint Committee on Taxation, Description of the Technical Corrections Act of 1987 (H.R. 2636 and S. 1350) (JCS-15-87), June 15, 1987.

PART ONE: TECHNICAL AMENDMENTS TO THE TAX REFORM ACT OF 1986
(Title I of H.R. 2636)

I. Capital Cost Provisions (Title II of the 1986 Act)

1. Expensing of depreciable property.--Clarification would be provided that, in determining the amount of property eligible to be expensed for a taxable year (other than a calendar year) that includes December 31, 1986, (1) all property that is placed in service during such year is taken into account for purposes of the $200,000 threshold, and (2) the taxable income from the trade or business is the amount derived during the entire year. The committee report to the bill would clarify that for such a year, up to $5,000 of property placed in service before 1987 may be expensed and up to $10,000 of property placed in service after 1986 may be expensed. In no event may a total of more than $10,000 be expensed during the entirety of such year.

2. Sale-leasebacks.--Clarification would be provided that the transitional exception for sale-leasebacks applies to property that would have qualified for transitional relief in the absence of the sale-leaseback (e.g., property not placed in service before the sale-leaseback) and to property where the original owner is a sublessee if all the other requirements for transitional relief are satisfied.

3. Mid-quarter convention.--Clarification would be provided that, in determining whether the mid-quarter convention applies to property that is subject to modified ACRS, property that would be subject to modified ACRS but for the application of the effective date or a transitional rule is taken into account only for taxable years that begin before October 1, 1987. The committee report to the bill would clarify that the depreciable basis of property is to be used to measure the percentage of property placed in service during the fourth quarter of a taxable year.

4. Commercial passenger aircraft.--The date by which a binding contract was required for new commercial passenger aircraft to qualify for depreciation and ITC transitional exceptions would be corrected, from March 1, 1986, to April 1, 1986.

5. Ordering rules for use of credits.--Clarification would be provided that the order in which the components of the general business credit and the subcomponents of the investment tax credit are used generally is the order in which such credits are listed in the applicable Code section as of the close of the taxable year in which the credit is used.

6. Elective carryback of 50 percent of investment credit carryforwards.--Clarification would be provided that the amount treated as a payment of tax under the elective carryback rules for certain steel companies is not affected by the restructuring of a company.

7. Definition of 5-year property.--Clarification would be provided that the term 5-year property does not include real property that is used in connection with research and experimentation.

8. Miscellaneous clerical and conforming amendments.--Miscellaneous clerical and conforming amendments would be made, including amendments correcting inaccurate descriptions of certain project-specific transitional exceptions.

9. Low-income housing credit provisions.--Clarification would be provided that designation of a de minimis portion of the gross rent of a low-income housing unit for use towards purchase of the unit by the tenant after expiration of the minimum compliance period for credit projects does not affect a housing project's eligibility for the low-income housing credit.

II. Natural Resources (Title IV of the 1986 Act)

1. It would be clarified that there is no recapture of mining exploration expenses to the extent such expenses are included in income upon reaching the production stage.

III. Tax Shelters; Interest Expense (Title V of the 1986 Act)

1. Passive losses.--The basis of property distributed by an estate or trust to a beneficiary would be increased by the passive activity losses attributable to such property.

2. Interest expense.--

a. Any amount disallowed under the investment interest limitation of prior law, and carried forward to 1987, which is attributable to a passive activity (for example, interest incurred to purchase property subject to a net lease) would be treated as carried over under the passive loss rules rather than the investment interest rules.

b. A trust or estate would be allowed to deduct interest with respect to a qualified residence of a beneficiary with a present or residuary interest in the trust or estate.

c. It would be clarified that personal interest does not include interest payable on estate tax deferred under prior law sec. 6166A.

3. At-risk.--It would be clarified that certain public mortgage funds qualify as qualified lenders.

IV. Corporate Tax Provisions (Title VI of the 1986 Act)

A. Special limitations on net operating loss and other carryforwards

1. Increase in section 382 limitation in the case of a section 338 election.--The amendment would clarify that, in computing the increase in the section 382 limitation that occurs with respect to the net unrealized built-in gain of the old loss corporation when a section 338 election is made, there is a reduction for any prior recognized built-in gain (e.g., gain recognized after the section 382 ownership change date and before the section 338 acquisition date).

2. Reduction in tax attributes where discharge of indebtedness.--The amendment would clarify the attribute reduction that occurs in certain bankruptcy situations and provide that such reduction does not apply to the extent that an interest deduction has already been denied for interest payments to creditors who become shareholders.

3. Bankruptcy proceedings.--The amendment would clarify that, for purposes of the rule that provides special treatment if shareholders and certain creditors own at least 50 percent of the value and voting power of the loss corporation, stock of a qualified creditor is taken into account only to the extent such stock was received in satisfaction of qualified indebtedness.

4. Carryforwards of limited built-in losses.--The amendment would clarify that a recognized built-in loss that is disallowed retains its character as a capital loss or ordinary loss and is carried forward under the rules applicable to a loss of that character.

5. Special rules for post-change year which includes change date.--The rules applicable to built-in gains and losses are clarified.

6. Treatment of deductions as built-in losses.--The application of the built-in loss computation in the case of deductions treated as built-in losses is clarified.

B. Recognition of gain or loss on liquidating sales and distributions of property (General Utilities)

1. Regulatory authority.--The amendment would clarify that the regulatory authority to prevent circumvention of the provisions of the Act extends to all the amendments made by subtitle D of Title VI of the Act.

2. Tax imposed on certain built-in gains of S corporations.--The operation of the built-in gains tax is modified and clarified so that it properly measures and segregates the tax on net C corporation built-in gains.

3. Distributions of appreciated property by S corporations.--It is clarified that the principles of subchapter C, governing the recognition of gain and loss on distributions and permitting the recognition of losses in certain circumstances, also apply to S corporations.

4. Transitional rules for certain small corporations.--

a. Section 333.--The amendment would clarify that, although the Act repealed section 333 of the Code, in the case of a liquidating distribution to which section 333 of prior law would apply, a shareholder of a qualified small corporation electing such treatment is entitled to apply section 333 without any phase-out of shareholder level relief, apart from the additional shareholder-level gain that could result from the phase-out of corporate level relief.

b. Special holding period rules.--For purposes of determining whether the 5-year holding period has been met, it is clarified that property acquired by reason of the death of an individual is treated as owned at all times during which the property was treated as owned (in addition to actually owned) by the decedent.

C. Related party sales

The amendment would clarify the reference to partnerships that are more than 50 percent owned, directly or indirectly, by the same person.

D. Amortizable bond premium

The amendment would clarify that amortizable bond premium is not treated as an interest deduction for purposes of the interest limitation provisions of the Code but rather is treated as an offset to interest income on the bond.

E. Regulated investment companies (RICs)

1. Earnings and profits and tax on undistributed income.--For purposes of determining dividend treatment of RIC distributions during any calendar year, earnings and profits would be determined without regard to any net foreign currency loss attributable to transactions after October 31 of such year.

2. Tax on undistributed income and foreign currency transactions.--For purposes of determining a RIC's ordinary income, gain or loss which is attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 would be taken into account in the following year.

3. Tax on undistributed income and qualified trusts.--The tax on undistributed income would not apply to a RIC owned only by trusts qualified under section 401(a) or by segregated asset accounts of life insurance companies held in connection with variable contracts.

4. Application of 90-percent test to partnership or trust income.--Income derived from a partnership or trust would be treated as qualifying income only to the extent that such income is attributable to items of partnership or trust income which would be qualifying income if earned by a RIC.

5. Application of the thirty percent test to foreign currency transactions.--For purposes of applying the thirty-percent test to foreign currency transactions, foreign currency gains directly related to the company's principal business would not be treated as derived from the sale or disposition of property held for less than three months.

6. Application of the thirty percent test to liquidations.--Gains after the adoption of a plan of complete liquidation would not be taken into account under the thirty percent test if the RIC liquidates within the same taxable year.

7. Application of the thirty percent test to series funds.--A fund that is part of a series fund would not be disqualified under the thirty percent test when it has abnormal redemptions exceeding 30 percent of net asset value and the series of funds would meet the thirty percent test if all funds of that series were treated as a single RIC.

F. Real estate investment trusts (REITs)

1. Excise tax on undistributed income.--Dividends attributable to net income from foreclosure property would be excluded from the definition of "distributed amount."

G. Real estate mortgage investment conduits (REMICs)

1. Asset test.--In order for an entity to qualify as a REMIC, substantially all its assets would be required to consist of qualified mortgages and permitted investments as of the close of the third month ending after the startup day and at all times thereafter.

2. Prohibited transactions.--Prohibited transactions would not include (1) any repurchases in lieu of substitution of defective obligations, or (2) dispositions required either to prevent default on a regular interest resulting from defaults on qualified mortgages or to facilitate a clean-up call.

3. Regular interests.--Regular interests would encompass certain interests which entitle the holder to receive only a nominal principal amount.

4. Qualified mortgages.--The Treasury would be granted regulatory authority to exclude certain mortgages purchased pursuant to a fixed price contract from the definition of qualified mortgages.

5. Tax on contributions after startup day.--Exceptions to the tax on contributions would be made for cash contributions (1) made to facilitate a cleanup call or a qualified liquidation, (2) in the nature of a guarantee, (3) during the three months following the startup day, (4) to a qualified reserve fund by the holder of a residual interest, or (5) as permitted in Treasury regulations.

6. Offset of excess inclusions by net operating losses.--Affiliated groups would not be permitted to use net operating los es to offset excess inclusions, but thrift institutions (but not affiliated groups containing such organizations) would.

7. Special tax where tax-exempt entity owns residual.--To the extent that an excess inclusion is not already subject to tax, a tax at the top corporate rate would be imposed on a REMIC for the nontaxable excess inclusion of a tax-exempt entity owning a residual interest.

8. Excess inclusions.--Adjusted issue price would not be decreased below zero, so that all REMIC taxable income earned thereafter would be treated as excess inclusions.

9. Signing of returns.--For taxable years that begin after the date of enactment, the trustee (in the case of REMIC which is organized as a trust under local law) and the corporation (in the case of a REMIC which is organized as a corporation under local law) would be responsible for filing REMIC returns.

10. Application of asset test to qualified liquidations.--The asset test would not be applied during the period during which a qualified liquidation occurs.

11. Cash flow investment.-- The definition of a "cash flow investment" would be extended to include amounts accumulated for clean-up calls.

12. Consolidated returns.--The REMIC provisions would be exclusive for income tax purposes; thus, a REMIC would not be permitted to be part of an affiliated group, and would not be part of a consolidated return.

13. Taxation as individual.--The Treasury would be granted regulatory authority not to determine the taxable income of a REMIC in the same manner as in the case of an individual.

V. Minimum Tax Provisions (Title VII of the 1986 Act)

1. The provision in the bill (sec. 107(c)(4)) relating to incentive stock options would be clarified to provide that stock acquired on the exercise of an incentive stock option would be treated, for all purposes of computing individual alternative minimum taxable income, in the same manner as if the option were not an incentive stock option. The provision would apply to options exercised after date of committee action.

2. The committee report to the bill would clarify that the provision in the bill relating to investment tax credits (sec. 107(g)(2)) applies only to determine the amount of credits allowable in a taxable year and does not change the order the credits are used.

3. It would be clarified that investment income is computed by taking into account the minimum tax preferences and adjustments, and that housing interest has the minimum tax definition in applying the minimum tax passive loss rules.

4. It would be clarified that for purposes of the minimum tax foreign tax credit, the determination of whether any income is high-taxed income shall be made on the basis of the minimum tax rate.

5. The depreciation rules for computing adjusted current earnings would be amended to (1) provide that in the case of leased property for which the lessor does not claim depreciation for book purposes, the amount of depreciation allowable would be the amount allowed under the alternative depreciation system; except that the amount of depreciation allowed could not exceed an amount which would reduce the net income from the transaction for adjusted current earnings, on a cumulative basis, to less than the amount of income from the transaction reported for book purposes, (2) allow taxpayers an election to determine whether book depreciation or alternative depreciation is to be used based on a comparison of the accumulated depreciations taken under each method, rather than by comparing present values, and (3) clarify that, in the case of property depreciated for tax

purposes on the unit-of-production, etc. method, that method may be used rather than the alternative depreciation method.

6. The completed contract method for the alternative minimum tax would be clarified to provide that the percentage of the contract completed will generally be the same as the percentage used for the regular tax. A simplified method of computing the income from long term contracts would be provided for small construction contracts (those that are excepted from the general rules for regular tax purposes).

VI. Accounting Provisions (Title VIII of the 1986 Act)

1. The authority of the Secretary of the Treasury to issue regulations under section 263A of the Code would be clarified. The Secretary would be specifically authorized to provide simplified procedures for the application of the capitalization rules to individuals engaged in the production of films, sound recordings, video tapes, books, or other similar property.

2. The application of the look-back method to long-term contracts would be clarified. If income under a long-term contract is not fixed at the completion of the contract and is received without interest after the completion of the contract, such income would be taken into account for purpose of the look-back method as of the completion of the contract in an amount equal to its discounted present value at the completion of the contract.

3. The adjusted basis of a partner's interest in a partnership or a shareholder's stock in an S corporation required to change its taxable year as a result of section 806 of the Act would be determined without regard to whether or not such income is recognized by the partner or shareholder currently or over a 4-year period. Any amount that would otherwise be included over a 4-year period would be included in the gross income of a partner or shareholder in the year in which the partner or shareholder's interest is disposed of.

4. The adjustment resulting from the change in method of accounting required by the repeal of the installment method for revolving credit plans would be required to be included in income at a rate no slower than the rate of contraction of the taxpayer's outstanding revolving receivables. In addition, any loss from the disposition of a revolving credit receivable would not be recognized currently, but would reduce the amount of the adjustment from the change in method of accounting. This reduction would effect any year's inclusion in income in reverse order of the time the adjustment would have otherwise been included in income.

5. The special rule for spudding of oil or gas wells is

clarified to allow economic performance for amounts paid for the drilling of an oil or gas well to be treated as having occurred within the taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year.

VII. Financial Institutions (Title IX of the 1986 Act)

1. Small governmental unit exception to disallowance of interest deductions of banks allocable to tax-exempt obligations.--Clarification would be provided that obligations used to refund obligations issued before August 8, 1986, could be done within the $10 million exemption for small governmental units, but such obligations would not count in determining whether the issuer was a small governmental unit.

VIII. Insurance Provisions (Title X of the 1986 Act)

1. Physicians' and Surgeons' Mutual Protection Associations.--Section 110(g) of the bill would be amended to provide that in determining the income of the mutual protection association and the deduction of any member, initial contributions may be paid in installments over a period that does not exceed 6 years.

IX. Pensions and Deferred Compensation; Employee Benefits; ESOPs (Title XI of the 1986 Act)

A. Pensions and deferred compensation

1. The bill provides that the $7,000 limit on elective deferrals applicable to section 401(k) and certain other plans ($9,500 in the case of a sec. 403(b) annuity) is a qualification requirement. The amendment would allow plans to incorporate this requirement by reference.

2. The amendment would clarify that deferrals made by an employee pursuant to a one-time, irrevocable election are not elective deferrals for purposes of applying the $9,500 limit to elective deferrals under a section 403(b) annuity or for purposes of the nondiscrimination rules applicable to section 403(b) annuities.

3. For purposes of the combined limit on benefits and contributions (sec. 415(e)), the amendment would provide that the defined benefit plan fraction is to be determined without regard to the 1986 Act change phasing in the $90,000 benefit limit over 10 years of participation (rather than over 10 years of service).

4. The bill provides that, under certain circumstances, a highly compensated employee, the employee's spouse, and the employee's children under age 19 are treated as one employee

for purposes of the $200,000 limit on the amount of compensation that may be taken into account under a benefit plan. The amendment would substitute lineal descendants under age 19 for children under age 19.

5. For purposes of determining highly compensated employees and key employees, the amendment would set the annual compensation minimum for officers at 50 percent of the defined benefit plan dollar limit, rather than 150 percent of the defined contribution plan dollar limit. The two are currently equal, but the former will be indexed beginning in 1988, while the latter will not be indexed for several years.

6. Section 1107(c)(5)(B) of the 1986 Act provided a transitional rule with respect to the amendments to section 457 of the Code. The bill would limit the rule to individuals participating in a deferred compensation plan on August 16, 1986. The amendment would provide, consistent with the 1986 Act, that the rule would apply to any individual eligible to participate in such a plan on August 16, 1986.

7. The amendment would clarify that the constructive receipt exception for eligible deferred compensation plans would not permit distributions before separation from service.

8. The amendment would conform section 3401(a)(12)(C) to the fact that contributions under simplified employee pensions are now excludable from an employee's gross income.

9. The amendment would provide that, as with the minimum participation rule, the coverage rules may not be avoided by the formation of a collectively bargained plan that covers a professional employee (e.g., doctors, lawyers, etc.).

10. The amendment would provide authority to the Secretary to permit, under appropriate circumstances, the new minimum participation rule to be applied separately to separate lines of business (such as a sports team and a manufacturing business). For this purpose, separate operating units would not be treated as separate lines of business.

11. The bill restricts the interest rate used for certain purposes by plans in existence on August 16, 1986, that would not satisfy the new minimum participation rule (sec. 401(a)(26)) (which is not effective until 1989). The amendment would also apply the restrictions to plans established after August 16, 1986, that would not satisfy the new minimum participation rule.

12. The amendment would modify the interest rate rule referred to above to (a) accommodate plans that use a formula

for determining the applicable interest rate, and (b) apply to plan transfers and distributions rather than mergers of plans.

13. The amendment would allow employers to avoid impermissible discrimination by making certain matching contributions forfeitable.

14. The amendment would allow employers to exclude certain employees (such as part-time employees) for purposes of determining highly compensated employees and key employees.

15. The amendment would clarify that rural electric cooperatives may maintain section 401(k) plans.

16. Under the amendment, distributions from a section 401(k) plan would be permitted if the plan were terminated without the establishment or maintenance of another defined contribution plan.

17. The amendment would allow an individual to use averaging despite having previously received (and in some cases rolled over) a distribution from an employee stock ownership plan (ESOP) made in satisfaction of the new diversification requirements.

18. The amendment would make combinations of pension plans (including annuity plans) and nonpension plans (including simplified employee pensions (SEPs)) subject to the deduction limits of section 404(a)(7).

19. With respect to plan contributions made pursuant to a collective bargaining agreement, the bill delayed the effective date of the new restrictions on deductible contributions. The amendment would modify the bill to impose the same requirements for this delay as apply to the collective bargaining agreement delays in the 1986 Act.

20. The amendment would clarify that an employer may not claim a deduction or credit with respect to an employer reversion transferred to an ESOP because the reversion is not included in the employer's income under a special rule in the 1986 Act.

21. The amendment conforms the statute to the legislative history of the 1986 Act by providing that, if an employer reversion is transferred to an ESOP, dividends on stock held in the suspense account (holding the transferred amount) would be required to be paid out currently to plan participants, used to repay an acquisition loan, or allocated to participants.

22. Under the amendment, the amount required to be

allocated from the suspense account described above would be no less than the lesser of (a) the maximum amount allowable under section 415, or (b) 1/8 of the shares acquired with the amount transferred (and amounts attributable thereto) rather than 1/8 of the amount transferred. The pro rata allocation rule applicable to years after the year of transfer would also apply to shares acquired with the amount transferred (and amounts attributable thereto).

23. The amendment would clarify that the estate tax on an individual's excess retirement accumulation (sec. 4980A) is not deductible against income in respect of a decedent, but is deductible against the gross estate. The amendment also clarifies the filing requirements with respect to this special estate tax.

24. The amendment would clarify that a beneficiary's interest in a plan as a beneficiary (other than the interest of a spouse who makes a special election to waive current imposition of the tax at the participant spouse's death) is disregarded in determining the excess retirement accumulation subject to estate tax.

25. The amendment would allow the election of the grandfather rule with respect to the excess distribution tax and the estate tax on excess retirement accumulations to be made on an income tax or estate tax return.

26. Under the amendment, income attributable to the August 1, 1986, accrued benefit also would be grandfathered. Except to the extent permitted by the Secretary, this rule would not apply to any individual if new contributions or accruals are made on behalf of such individual after August 1, 1986, to a plan containing a grandfathered amount for such individual. If an individual does not qualify for the above income rule, or if an individual elects out of that rule, such individual's grandfathered amount would be indexed.

27. The amendment clarifies that, in order to be treated as an immediate annuity not subject to the rules relating to deferred annuities, an annuity must provide for a series of substantially equal periodic payments (not less frequently than annually) over the life expectancy of the annuitant. An annuity would not be treated as failing the substantially equal periodic payments requirement if the annuity provided for payments over the life expectancies of more than one annuitant even if the payments decreased after the death of the first annuitant.

28. The bill provides that a plan is not qualified unless it specifies whether it is intended to be a profit-sharing plan or a money purchase pension plan. The amendment would clarify that this requirement only applies to plans that are intended to be either a profit-sharing plan or

money purchase pension plan.

29. The amendment would provide that a partial distribution may be rolled over if the distribution is at least 50 percent of the balance to the credit of the employee in the plan (determined immediately before the distribution), the distribution is not one of a series of substantially equal periodic payments, and the distribution is made on account of death, disability, or separation from service.

30. The amendment would clarify that the IRS is not required to provide a model amendment with respect to the technical corrections provisions in the 1986 Act relating to qualified plans.

B. Employee benefits

1. The amendment would reduce the sanction for discriminatory welfare benefit funds so that the sanction only applies to the discriminatory amount.

2. The amendment would correct a cross reference in section 89(g)(6)(B) so that for purposes of the 80-percent test under section 89, certain family health coverage provided to highly compensated employees may not be disregarded.

3. The amendment would provide that, in the case of group-term life insurance that fails to satisfy the qualification rules (sec. 89(k)), the benefit would be included in the income of the beneficiary, rather than in the income of the employee.

4. The amendment would coordinate the sanctions for discriminatory plans (sec. 89(a)) and for plans that fail to satisfy the qualification rules (sec. 89(k)).

5. Under the amendment, the key employee concentration test applicable to cafeteria plans would not apply to benefits includible in income under section 89.

6. The amendment would modify the bill to restore the exemption from FICA and FUTA tax for all nondiscriminatory group-term life insurance provided under a cafeteria plan.

7. The amendment would provide that employees who are disregarded for purposes of the health care and life insurance nondiscrimination rules also are disregarded for purposes of the nondiscrimination rules applicable to tuition reduction, group legal services, educational assistance, miscellaneous fringe benefits (sec. 132), dependent care assistance, and welfare benefit funds.

8. Under the amendment, the $200,000 limit on

compensation taken into account for all other benefits purposes also would apply for purposes of the nondiscrimination rules applicable to welfare benefit funds.

9. The amendment would repeal section 3401(a)(19), which provides an exclusion from wages based on a provision repealed by the 1986 Act.

10. Under the amendment, the new deduction for medical expenses paid by self-employed individuals would be limited to the self-employed individual's earned income from the trade or business paying for the medical expenses, to conform the rule to the qualified plan rules and the treatment of common-law employees in this regard. The amendment also would provide that the deduction does not apply for purposes of the Social Security Act (because the deduction does not apply for purposes of the tax on self-employment income).

11. Under the amendment, the $5,000 annual limit on dependent care assistance would apply on the basis of services rendered rather than amounts paid (though no amount would be taxable until actually received).

C. ESOPs

1. Under the bill, ESOP dividends that are paid with respect to allocated employer securities and that are used to repay an ESOP loan are deductible if the participants otherwise entitled to the dividends receive allocations of stock equal in value to the dividends. The amendment provides that the allocation must be at least equal in value to the dividends. The amendment would also provide that use of deductible dividends to repay an acquisition loan is not a prohibited transaction under section 4975(d)(3) of the Code.

2. The amendment would delete the requirement in the bill that the plan termination exception to the 84-month rule is limited to lump-sum distributions and to instances in which no successor plan is established.

3. The amendment would resolve the conflict between section 409(o), on the one hand, and sections 401(a)(11) and 411(a)(11), on the other hand, by providing that in the absence of a participant's (and spouse's, if applicable) election, immediate distribution is not permitted with respect to participants with a specified level of benefits.

D. Other corrections

1. The amendment would clarify that the one-vote-per-participant rule in section 409(e)(5) applies only to plans maintained by an employer that does not have a registration-type class of securities.

2. The amendment would modify the definition of "rural electric cooperative plan" in the bill (which refers to a definition of rural electric cooperative that did not exist). The amendment would also add a definition of "rural electric cooperative" based on the pre-1986 Act definition.

3. Under the amendment, the rules provided for qualified plans with respect to qualified domestic relations orders would also apply to section 403(b) annuities, except to the extent otherwise provided in regulations.

4. The amendment would provide that the provision of an automatic joint and survivor annuity does not have estate or gift tax consequences.

5. The 1986 Act subjected contributions to section 401(h) accounts on behalf of all key employees to the section 415 limits, effective for plan years beginning after March 31, 1984. The amendment would make the 1986 Act change effective for years beginning after December 31, 1985, which generally conforms the effective date to a comparable one applicable under section 419A.

6. The amendment would define "covered employee," for purposes of applying the health care continuation rules, as any individual who is (or was) provided coverage under a group health plan by virtue of performing or formerly performing services for the provider of the plan.

7. The amendment would provide that the requirement to provide health care continuation does not cease with respect to a qualified beneficiary when the qualified beneficiary becomes covered under another group health plan if such plan denies any coverage due to a pre-existing condition.

X. Foreign Tax Provisions (Title XII of the 1986 Act)

A. Foreign tax credit

1. Look-through rule for characterization of interest paid by banking, insurance, etc., subsidiaries.--The amendment would restore look-through treatment for so much of the high-taxed interest payments from a controlled foreign bank or an insurance company to a U.S. shareholder as exceed the foreign corporation's financial services income that is interest or its equivalent.

2. Carryforwards of high withholding tax credits.--The separate foreign tax credit limitation for high withholding tax interest would apply to post-1986 carryforwards of foreign taxes paid or accrued during tax years beginning before 1987 on income which was overall limitation income under the pre-1986 Act Code, but that the taxpayer establishes as having met the definition of high withholding

tax interest.

3. Noncontrolled section 902 corporations.--

a. Dividends a taxpayer receives from a controlled foreign corporation out of earnings for periods during which the payor was a controlled foreign corporation but the taxpayer was not a U.S. shareholder in the corporation would be subject to the separate noncontrolled section 902 corporation foreign tax credit limitation.

b. Only corporations, and not individuals, would be subject to separate foreign tax credit limitations for dividends from each noncontrolled section 902 corporation.

4. Phase-in of "fresh start" E&P for deemed-paid credit purposes.--For purposes of computing the post-1986 undistributed earnings of a foreign corporation paying dividends or earning income bringing up deemed-paid foreign tax credits, any increase in earnings under the fresh start provision applicable to loss reserves of property and casualty insurance companies would be phased in over 10 years.

B. Source rules

1. Personal property.--

a. A U.S. resident would have to have an office in a foreign country, rather than outside the United States, to generate foreign source income.

b. The amendment would make elective rather than mandatory the bill's provision that allows U.S. residents that sell stock in a foreign corporation to consider subsidiaries of the foreign corporation in determining the source of income from the sale.

c. The amendment extends the Act's provision resolving certain source rule conflicts in favor of treaties to allow treaties to determine the source of income from sales of intangibles.

d. A U.S. citizen or resident alien who does not have a tax home anywhere would be a resident for source purposes.

e. An election to treat a sale of stock of a U.S. corporation as a sale of the corporation's assets would apply for foreign tax credit purposes to the extent of the dividend income generated from the deemed sale of stock of a controlled foreign corporation.

2. Transportation income.--

a. For purposes of determining whether a foreign corporation that is organized in a qualifying country meets the more-than-50-percent-local-ownership test for U.S. tax exemption, stock owned in that corporation by a publicly-traded corporation that is organized in a qualifying country would be treated as owned by individuals resident in the publicly-traded corporation's country of organization.

b. United States tax exemption for gross income derived by a foreign corporation organized in a qualifying country would be granted only to its international operation of ships or aircraft, rather than to any operation of ships or aircraft.

3. Space and ocean income.--International communications income would include income derived from the transmission of communications or data from the United States to any U.S. possession (and vice-versa), as well as to any foreign country.

4. 80/20 companies.--The source of a subsidiary's income, as well as its character, would be attributed to its parent in determining whether the parent satisfies the active foreign business requirements.

5. Interest allocation.--

a. Expenses of subsidiaries of financial institutions.--To the extent provided in regulations, interest expenses of an active, financial subsidiary of a financial institution described in section 581 or 591 would be allocated as if they had been incurred by the parent.

b. Limitation on special phase-in amount.--The amendment would make it clear that a group's amount eligible for four- or five-year transition relief from the Act's interest expense allocation rules generally cannot exceed the group's lowest amount of indebtedness outstanding since November 16, 1985.

c. Waiver of transition rules for expense allocation.--Taxpayers could elect not to apply the three-, four-, and five-year provisions that phase in the Act's new interest expense allocation rules.

C. U.S. taxation of income earned through foreign corporations

1. Effectively connected income election for captive insurers.--

a. A controlled foreign corporation that did not have a U.S. shareholder (determined under the general subpart F rules) with actual ownership (or indirect ownership through a

foreign entity) of stock in the corporation would be eligible to make the effectively connected income election.

b. A foreign corporation making the effectively connected income election would not be required to waive treaty benefits granted by any foreign country.

2. Definition of related person insurance income.--

a. The amendment would clarify that related person insurance income includes income on a reinsurance contract that directly or indirectly covers a risk of a U.S. shareholder or related person.

b. The provision in the bill defining related person insurance income without reference to whether shareholders or related persons are primary insureds would be effective only with respect to taxable years of foreign corporations beginning after 1987.

3. Information returns on captive foreign insurance companies.--In the case of a foreign corporation earning related person insurance income, a U.S. person owning any stock (directly or indirectly) in the corporation would be required to file an information return relating to the corporation.

4. Foreign personal holding company income (FPHCI).--

a. The excess of gains over losses on sales and exchanges of interests in trusts, partnerships, and REMICs would be included in the category of income that gives rise to FPHCI.

b. The amendment would expand the dealer and inventory property exceptions from FPHCI treatment of gains to further exclude from FPHCI gains and losses arising out of bona fide hedging transactions reasonably necessary to the conduct of the business of being a regular dealer in property.

c. The amendment would clarify that net losses from the class of transactions the gains on which are covered by the dealer and inventory exceptions do not reduce FPHCI.

5. Computation of insurance income.--The amendment makes it clear that regulations are to provide for proper allocation of reserve and other deductions of insurance companies. In general, regulations are to provide that deductions that are not specifically allocable are to be apportioned between underwriting and investment income.

6. Sale of stock in captive foreign insurance companies.--Gain derived from the sale of stock by a U.S.

shareholder in a captive foreign insurance company would be characterized as a dividend to the extent of that shareholder's pro rata share of the captive's earnings and profits.

7. Exclusion of uninsured U.S. investors in captive foreign insurance companies from current tax.--Under regulations, a U.S. person who is a U.S. shareholder in a captive foreign insurance company would not be treated as a U.S. shareholder in the company if that person (or a related person) was not an insured of the captive.

8. Carryover of same-country investment income subpart F deficits.--The amendment would clarify that post-1986 deficits attributable to same-country investment income of an insurance company could be carried forward to offset subsequent years' earnings attributable to same-country investment income.

9. Deficits of controlled foreign corporations.--Post-1986 deficits of a controlled foreign corporation attributable to base company sales or services would be available to offset later base company sales or services income of that corporation.

D. Special tax provisions for U.S. persons

1. Dividends received deduction.--Taxes imposed on income eliminated under the dividends received deduction would not be creditable. In lieu of claiming the dividends received deduction, taxpayers could elect to treat the U.S. source portion of any dividend, if authorized to do so by a U.S. treaty, as foreign source, with allowance for any direct and indirect foreign tax credits, but the U.S. source portion would be subject to separate foreign tax credit limitation treatment.

2. Possession tax credit.--Under a transition rule, a corporation would not be disqualified in taxable years beginning in 1987 or 1988 if: (1) it meets the 65-percent active income requirement of prior law; (2) 75 percent or more of the gross income of the corporation for taxable years beginning after 1986 is active income; and (3) it elects to reduce qualified possession source investment income to the extent in excess of that allowed under the 1986 Act. Income attributable to disallowed investment income would not be treated as qualified possession source investment income for any taxable year.

3. Information concerning resident status.--The amendment would provide that U.S. agencies collecting information on green card applicants are not to disclose such information to the Secretary of the Treasury to the extent such disclosure is contrary to the Immigration and

Nationality Act.

4. Passive foreign investment companies.--

a. The election to extend the time to pay tax in the case of a shareholder of a qualified electing fund would be terminated if the PFIC directly or indirectly lends money or property to the shareholder.

b. In determining whether a foreign corporation is a PFIC, passive income would not include interest, rents, or royalties received from a related person to the extent the payments are allocable to income of the payor that is not passive.

c. The amendment would allow foreign corporations an election to consider the adjusted tax bases of their assets, rather than the fair value of their assets, in determining their status as a PFIC under the asset test.

d. A U.S. shareholder in a controlled foreign corporation which becomes a qualified electing fund in a year after the year in which the corporation became a PFIC could elect to include in income his or her pro rata share of the corporation's earnings accumulated since the corporation was a PFIC (and become subject to the qualified electing fund rules thereafter), rather than including in income the entire amount of the unrealized appreciation inherent in the value of his or her stock.

E. Treatment of foreign taxpayers

1. Net- and gross-basis taxation of foreign insurers.-- The gross basis tax on premiums paid to foreign insurance companies would apply unless the income is, after application of treaties, subject to U.S. tax on a net basis.

2. Branch profits tax.--

a. Interest paid by a foreign corporation generally would be U.S. source if allocable to gross income that is treated as effectively connected with the conduct of a U.S. trade or business as well as income that is actually effectively connected.

b. Effectively connected earnings and profits would be determined without regard to any increase in current earnings and profits under the fresh start provision applicable to loss reserves of property and casualty insurance companies.

3. Partnership withholding.--The amendment would require regulations to adjust the amounts withheld from partnership distributions in order to account for partnership income

subject to the regular 30 percent (or reduced treaty rate) withholding rules and the FIRPTA withholding rules, and to account for partnership income not subject to U.S. tax (for example, certain capital gain income).

F. Foreign currency exchange rate gains and losses

1. Foreign currency transactions.--

a. Where foreign exchange gains or losses are experienced by a partnership, the amendment would give the Treasury regulatory authority to determine residence (for purposes of sourcing foreign currency gains and losses) at the partner level.

b. A U.S. citizen or resident alien who does not have a tax home anywhere would not be a nonresident for purposes of sourcing currency gain and loss.

c. The amendment would clarify that where a taking or making of delivery in connection with a forward, futures, option, or similar instrument is treated like a sale of the instrument, the deemed sale is considered to have been made at the instrument's fair market value.

2. Foreign currency translation.--The amendment would clarify that for purposes of the currency translation provisions, as well as other foreign provisions of the Code, the term "foreign income taxes" includes taxes paid in lieu of foreign income taxes.

G. Tax treatment of possessions

1. Virgin Islands residents.--The amendment would make it clear that a Virgin Islands resident who does not fully satisfy his or her V.I. income tax liability is liable to the United States to the extent of the deficiency.

H. Miscellaneous foreign provisions

1. Liquidations of U.S. corporations into foreign corporations.--The bill clarifies that should the Act's provision taxing the unrealized appreciation of a U.S. corporation's assets upon liquidation into an 80-percent owned foreign corporation somehow be found to conflict with treaties, the Act will prevail. The amendment delays the effective date of that provision to the date of the bill's introduction.

2. Foreign person with a U.S. office.--Income derived by a nonresident from the sale of inventory property outside the United States where the income is attributable to a U.S. office would be treated as foreign source if a treaty requires such a result.

3. Excess interest provision and treaties.--The amendment would provide that in the case of any conflict between the Act's provision imposing the branch-level interest tax on "excess interest" (the excess of the interest that a U.S. branch of a foreign corporation deducts over the interest that it pays) and an income tax treaty, the treaty prevails.

4. Information exchange.--The amendment would repeal an existing disclosure provision treating as states the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, which have bilateral agreements relating to the exchange of information with the United States.

5. Source of subpart F inclusions.--If dividends from a foreign corporation are treated as foreign source income under a tax treaty, then any subpart F inclusion with respect to such a corporation that is attributable to U.S. earnings generally would be treated as foreign source but subject to a separate foreign tax credit limitation.

6. Treatment of tax exempt shareholders of a DISC.--Amounts included in the income of shareholders of Domestic International Sales Corporations (DISCs) would be treated as unrelated business taxable income in the hands of shareholders that are generally tax-exempt.

7. Previously taxed income and section 1248 dividend income.--The purchaser of stock of a U.S. corporation that is formed principally to hold the stock of a controlled foreign corporation would not receive previously taxed income treatment on the receipt of dividends, but that treatment would be accorded to the U.S. corporation whose stock was acquired.

8. Shared FSCs.--The amendment would allow U.S. corporations to share in the ownership of one foreign sales corporation by providing for separate treatment of transactions involving each shareholder and the FSC.

9. Treaties and scholarship income.--The amendment would provide that in the case of any conflict between the Act's provision imposing tax on certain scholarship and fellowship income and an income tax treaty, the treaty prevails.

XI. Tax-Exempt Bond Provisions (Title XIII of the 1986 Act)

1. Small-issuer rebate exception.--Clarification would be provided that issuers qualifying for the exception from arbitrage rebate for certain small governmental units are permitted to allocate part or all of the annual $5 million exemption amount to subordinate entities where the bonds

would qualify for exemption if issued directly by the allocating governmental unit. Clarification also would be provided to the rules governing aggregation of issuers under this rebate exception.

2. Exception from State volume caps for certain refunding bonds.--Statements in the legislative history accompanying the 1986 Act explaining rules for exemption from the State volume caps for refundings of certain student loan bonds and qualified mortgage bonds would be codified. This provision provides that refunding bonds are exempt from the volume caps only if they include identical provisions limiting loan origination periods and redemption of bonds with unused proceeds and prepayments to those of the refunded bonds. (This codification would apply to refunding bonds issued after the date of committee action.)

3. Conforming amendments to maturity limitation for certain bonds.--Limitations on maturity for bonds qualifying for numerous provisions of Title XIII of the 1986 Act would be conformed so that the limitations are determined in the same manner for all such provisions.

4. Changes in use of bond-financed single-family housing.--Clarification would be provided that the disallowance of interest deductions with respect to bond-financed single-family housing provided under the 1986 Act's change in use penalties terminates if the housing again becomes the principal residence of the mortgagor.

5. Targeting rules for certain refundings of multifamily residential rental property bonds.--Clarification would be provided that multifamily residential rental property financed with bonds issued before the 1986 Act's amendments to the targeting rules for such property is not required to meet the revised targeting rules solely by virtue of the fact that the bonds are refunded after the effective date of the 1986 Act.

6. Application of change in use penalties to small-issue bonds.--Clarification would be provided that the 1986 Act's change in use penalties apply in the case of small-issue bonds, and certain rules provided in the legislative history accompanying the 1986 Act with respect to events that constitute such a change in use would be codified.

7. Clarification of validity of certain provisions of Treasury regulation sec. 1.103-13.--Clarification would be provided that Treasury regulations regarding certain sinking funds are valid, under both the 1954 and 1986 Internal Revenue Codes, and additional clarification would be provided on the scope of the regulatory authority of the Treasury Department under the Code arbitrage restrictions. In the case of the sinking fund regulations, this clarification

would provide that these regulations apply as provided in T.D. 7627.

8. Clarification of effective date of amendments on qualified scholarship funding corporations.--Clarification would be provided that the 1986 Act's amendment governing use of accumulated income of qualified scholarship funding corporations applies to distributions of such income occurring after August 15, 1986.

9. Application of new requirements for student loan bonds and qualified mortgage bonds to certain refunding bonds.--Rules contained in the legislative history accompanying the 1986 Act on the scope of a transitional exception for refundings of certain pre-effective date student loan bonds and qualified mortgage bonds would be codified. This clarification would provide that the 1986 Act's requirements for such bonds apply in the case of loans made more than three years after issuance of the refunded (original) bonds. (This clarification would apply to such loans made after December 31, 1987, with proceeds of refunding bonds issued after August 15, 1986.)

10. Clarification of arbitrage restriction on acquisition of "investment-type" property.--Clarification would be provided that the arbitrage restriction on acquiring "investment-type" property with bond proceeds applies to advance refunding (as well as new money) bonds issued after September 25, 1985.

11. Application of alternative minimum tax to bonds issued under transitional exceptions.--Clarification would be provided that the special rules for application of the alternative minimum tax to bonds issued pursuant to certain transition rules do not apply to refundings of bonds issued before the effective date of the 1986 Act. Rather, application of the minimum tax to those refunding bonds is governed by the general effective date provisions for the minimum tax (and the transitional exceptions included therein).

12. Clarification of project specific transition rules.--Clerical amendments would be made correcting inaccurate descriptions for various project-specific transitional exceptions.

13. Minor clerical and conforming amendments.--Miscellaneous other clerical and conforming amendments would be made.

XII. Trusts and Estates; Minor Children; Generation-Skipping Transfer Tax (Title XIV of the 1986 Act)

A. Income taxation of trusts and estates

1. Exception for certain powers of independent trustees.--The exception to the rule taxing the income of a trust to its grantor if certain powers are not held by the grantor would not apply if the spouse of the grantor, or persons subservient to the spouse, held the power.

2. Special rule for determining value of reversionary interest.--In determining whether a grantor of a trust is taxable on the income of the trust in which the grantor has a significant reversionary interest, the value of the grantor's reversionary interest would be determined by assuming the maximum exercise of discretion in favor of the grantor, regardless of who exercises that discretion.

3. Taxable year of trusts.--The trustee would be able to elect to include the entire taxable amount of the taxable income attributable to the trust's short taxable year arising from a required change of its taxable year in the first year beginning after the required change in taxable years instead of including that income in the beneficiaries' income over a 4-year period beginning after the year of change.

4. Taxable years.--The 4-year spread for income attributable to a short taxable year arising from a required change in taxable year would not be available to pass-through entity which itself is required to change its taxable year.

5. Estimated taxes.--A grantor trust which receives the residual of the probate estate under the grantor's will be treated as an estate for estimated tax purposes.

6. Determination of estimated tax using the annualized income.--The annualized amount of income of a trust as of the end of a quarter would be computed with reference to the trust's income for the months ending one month before the due date of the installment.

7. Multiple trusts.--Multiple trusts which were irrevocable as of March 1, 1984, would be treated as a single trust for the period after the 1984 Act and prior to the effective date of the 1986 Act if the taxpayer treated them as one and if the trusts have no accumulated earnings and made no accumulated distributions in that period.

8. Application of 2-percent floor to personal exemption of trust or estate.--The term "itemized deduction" would not include the personal exemption of an estate or trust.

9. Taxable year of trusts.--The tax for the trust's short taxable year attributable to the required change in taxable years would be determined on an annualized basis.

B. Taxation of unearned income of minor children

1. Joint custody.--Where both parents have custody of a child, the parent whose income would be taken into account would be the parent with custody for a greater portion of the calendar year.

C. Generation-skipping transfer tax

1. Excluded transfers.--Section 2611(b)(1) would be repealed as unnecessary.

2. Scope of special rules for certain inter vivos transfers.--The special rules for allocating GST exemption in the case of inter vivos transfers would apply to any portion of property includible in the transferor's gross estate.

3. Application of special rules for certain inter vivos transfers to direct skips.--Inter vivos transfers which otherwise would be direct skips are treated as direct skips at the end of the estate tax inclusion period.

4. Allocation of exemption under special rules for certain inter vivos transfers.--No allocation of GST exemption to certain inter vivos transfers would be permitted until after the close of the estate tax inclusion period.

5. Disregard of support obligation as interest.--Use of trust assets to discharge a person's obligation of support would not give that person an interest in a trust if such use is discretionary or pursuant to the provisions of any State law substantially equivalent to the Uniform Gifts to Minors Act.

6. Charitable lead annuity trusts.--Any GST exemption allocated to a charitable lead trust would be increased by the IRS discount rate until the termination of the charitable annuity interest and treated as allocated to the trust at that time for purposes of determining the inclusion ratio of that trust.

7. Treatment of a single trust as multiple trusts.--A single trust would not be treated as two or more trusts, except that portions of a trust attributable to transfers from separate transferors, and substantially separate and independent shares of different beneficiaries, would be treated as separate trusts.

8. Overlap of direct skips and taxable terminations and distributions.--Transfers which do not constitute direct skips because of the deceased parent rule or the $2 million exemption would not constitute taxable terminations or distributions.

9. Special election for qualified terminable interest

property.--The election to treat a trust for generation-skipping transfer tax purposes as if no QTIP election had been made would be available only if made with respect to all trust property.

10. Certain partial terminations treated as taxable.--If, upon the death of a lineal descendant of a holder, the holder's interest in property held in trust terminates and a specified portion of trust assets are distributed to skip persons, such termination would constitute a taxable termination with respect to such portion.

11. Definition of unused portion of deemed allocation.--The unused portion of a GST exemption would be that portion not previously allocated (or deemed as allocated with respect to a direct skip).

12. Treatment of certain nonreportable gifts.--Nonreportable gifts made to a trust would not be taken into account in determining the inclusion ratio for such trust and the inclusion ratio for nonreportable gifts which are the first transfer to a trust would be zero.

13. Generation assignment.--A grandparent of the transferor's former spouse would be assigned to that generation which results from comparing the number of generations between such grandparent and such individual with the number of generations between such grandparent and such spouse.

14. Taxation of multiple skips.--For multiple skips, generation assignment would be determined by reference to the original transferor.

15. Effective date.--The 1986 Act would not apply to certain generation-skipping transfers if the decedent was incompetent on October 22, 1986, and all times thereafter.

16. Conditions for meeting $2 million exemption.--The condition that all trust income be distributed annually after the grandchild reaches age 21 would be imposed only on transfers occurring after June 10, 1987.

17. Application of special rule for certain inter vivos transfers to $2 million exception.--For purposes of the $2 million exception, valuation of certain direct skips will be determined at the end of the estate tax inclusion period.

XIII. Compliance Provisions (Title XV of the Act)

1. The person required to provide information returns on real estate transactions would be called a "real estate reporting person" instead of a "real estate broker".

2. The provision in the Act requiring that, if an employee does not file a new Form W-4 by October 1, 1987, the employer must withhold income taxes as if the employee claimed one (if single) or two (if married) allowances, would be modified so that the provision would not apply if it would result in an increase in the number of withholding allowances for an employee.

3. The negligence penalty for failure to include on a tax return amounts shown on an information return would be amended by reinserting the prior-law rule providing that the penalty is restricted to the portion of the understatement of tax attributable to the failure to report.

4. The provision in the Act requiring that trusts and estates make estimated tax payments is modified by providing one additional month for the computation of the amount required to be paid.

XIV. Miscellaneous (Title XVIII of the 1986 Act)

1. The amendment would clarify that the transfer of stock acquired pursuant to the exercise of an incentive stock option in a transfer between spouses or incident to divorce would not be treated as a taxable disposition (within the meaning of section 425(c)).

2. The provision of the Act relating to the current taxation of escrow accounts, settlement funds, and other similar funds would be incorporated as part of the Code and authority would be provided to Treasury to prescribe regulations that identify the person that is subject to tax on the income from these accounts and funds.

3. The rule relating to the compensation of ocean freight forwarders would be removed.

4. An incorrect description of a transitional exception would be corrected.

PART TWO: TECHNICAL AMENDMENTS TO OTHER 1986 TAX LEGISLATION (Title II of H.R. 2636)

I. Superfund Revenue Act of 1986

Initial list of taxable substances

The amendment would add four chemicals to the initial list of taxable substances (with respect to the excise tax on imported chemical substances): polyacrylonitrile, polyethylene, Nylon 6, and Nylon 66.

II. Harbor Maintenance Revenue Act of 1986

Due date for study of impact of harbor maintenance tax on potential cargo diversion

Under the Harbor Maintenance Revenue Act of 1986, the Secretary of the Treasury (in consultation with the Secretaries of the Army and Transportation, the U.S. Trade Representative, and other appropriate Federal agencies) is to conduct a study to determine the impact of the harbor maintenance tax (0.04 percent of the value of the commercial cargo) on potential diversions of cargo to Canada or Mexico from U.S. ports. The report is due to the Congress by November 17, 1987 (one year after the date of enactment).

The amendment would extend the due date for the cargo diversion study until April 1, 1988.

III. Omnibus Budget Reconciliation Act of 1986

Miscellaneous pension provisions

1. The amendment would repeal section 411(b)(2)(B) because it has no application to defined contribution plans and section 411(b)(2) only applies to defined contribution plans.

2. The amendment would modify the definition of normal retirement age to mean the earlier of (a) normal retirement age under the plan, or (b) the later of (i) age 65, or (ii) the participant's fifth anniversary of participation.